

20. प्रक्रियाएं विनिर्दिष्ट करने और स्पष्टीकरण जारी करने की शक्ति

प्राधिकरण, इन विनियमों के कार्यान्वयन और उनसे आनुषंगिक विषयों के प्रयोजनों के लिए या किसी अंतरराष्ट्रीय वित्तीय सेवा केन्द्र में बैंककारी और विनिधान क्रियाकलापों से संबंधित वित्तीय सेवाओं को सुकर बनाने और उन्हें विनियमित करने के लिए, दिशानिर्देशों या परिपत्रों द्वारा मानक, प्रक्रियाएं, प्रक्रमण, रीतियां विनिर्दिष्ट कर सकेगा या शिथिलताओं का उपबंध कर सकेगा।

21. व्यतिक्रम की दशा में कार्रवाई

(1) यदि मूल बैंक आवेदक या बैंककारी यूनिट उन शर्तों को पूरा करने में असफल रहता है जिनके अधीन विनियम 3 के अधीन अनुज्ञप्ति मंजूर की गई है, तो प्राधिकरण बैंककारी यूनिट को अपने निवेदन, यदि कोई हैं, करने के लिए तीस दिन का अवसर देने के पश्चात् अनुज्ञप्ति को प्रत्याहृत कर सकेगा।

(2) प्राधिकरण, उपर्युक्त बातों पर प्रतिकूल प्रभाव डाले बिना, ऐसी कोई अन्य कार्रवाई कर सकेगा, जो वह अधिनियम के अधीन उचित समझे।

22. अधिक्रमण और व्यावृत्ति

(1) इन विनियमों के प्रारंभ से रिजर्व बैंक के परिपत्र सं. आई.बी.आई./2014-2015/533 डीओआर. आईबीडी. बीसी.14570/23.13.04/2014-15 तारीख 1 अप्रैल, 2015 के उपबंध अब लागू नहीं होंगे।

(2) उपर्युक्त बातों के होते हुए भी, उप-विनियम (1) में उल्लिखित परिपत्र की बाबत की गई या की गई तात्पर्यित किसी बात या किसी कार्रवाई के बारे में यह समझा जाएगा कि वह इन विनियमों के तत्स्थानी उपबंधों के अधीन की गई है।

(3) ऐसा बैंककारी यूनिट, जो इन विनियमों की अधिसूचना से पूर्व अंतरराष्ट्रीय वित्तीय सेवा केन्द्र में प्रचालनाधीन है, इन विनियमों की अधिसूचना की तारीख से तीन मास की अवधि के भीतर या ऐसे विस्तारित समय के भीतर, जो प्राधिकरण विनिर्दिष्ट करे, इन विनियमों में पुरःस्थापित अतिरिक्त अपेक्षाओं का, यदि कोई हैं, अनुपालन करेगा।

इंजेती श्रीनिवास, अध्यक्ष

[विज्ञापन III/4/असा./371/2020]

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY

NOTIFICATION

Gandhinagar, the 18th November, 2020

International Financial Services Centres Authority (Banking) Regulations, 2020

IFSCA/2020-21/GN/REG004.—In exercise of the powers conferred by sub-section (1) of Section 28 read with sub-section (1) of Section 12 and sub-section (1) of Section 13 of the International Financial Services Centres Authority Act, 2019, the International Financial Services Centres Authority hereby makes the following regulations for banking and investment activities in the International Financial Services Centres, namely: -

CHAPTER I PRELIMINARY

1. Short title and commencement

(1) These regulations may be called the International Financial Services Centres Authority (Banking) Regulations, 2020.

(2) They shall come into force from the date of its publication in the Official Gazette.

2. Definitions

(1) In these regulations, unless the context otherwise requires, -

(a) “Act” means the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(b) “Authority” means the International Financial Services Centres Authority established under sub-section (1) of Section 4 of the Act;

(c) “Banking Unit” means a financial institution under clause (c) of sub-section (1) of Section 3 of the Act that is licensed by the Authority to undertake permissible activities under these regulations;

- (d) “Foreign Bank” means a banking company incorporated or established outside India;
 - (e) “Foreign Bank Unit” means a Banking Unit set up by a Foreign Bank;
 - (f) “Indian Bank” means any bank incorporated or established under any Act, and includes a wholly owned subsidiary of a foreign bank incorporated in India, but does not include a co-operative bank;
 - (g) “Indian Bank Unit” means a Banking Unit set up by an Indian Bank;
 - (h) “INR” means the Indian currency called the Indian Rupee;
 - (i) “International Financial Services Centre” shall have the same meaning as assigned to it under section clause (g) of sub-section (1) of Section 3 of the Act;
 - (j) “Parent Bank” means a Foreign Bank as defined under sub-regulation (d) or an Indian Bank as defined under sub-regulation (f), or both, as the case may be, that intends to, or has set up a Banking Unit;
 - (k) “Qualified Individual” means an individual who is a person resident outside India having net worth not less than USD 1 Million or equivalent in the preceding financial year, which may be determined in such manner as specified by the Authority;
 - (l) “Qualified Resident Individual” means an individual who is a person resident in India having net worth not less than USD 1 Million or equivalent in the preceding financial year, which may be determined in such manner as specified by the Authority;
 - (m) “Reserve Bank” means Reserve Bank of India established under the Reserve Bank of India Act, 1934 (2 of 1934);
 - (n) “Securities and Exchange Board” means Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (o) “Stock Exchange” means a stock-exchange recognised by the Authority;
 - (p) “USD” means United States Dollar.
- (2) Words and expressions used and not defined in these regulations but defined in the Act or Acts mentioned in the First Schedule to the Act, or any rules or regulations made thereunder shall have the same meanings respectively assigned to them in those Acts, rules or regulations or any statutory modification or re-enactment thereto, as the case may be.

CHAPTER II

SETTING UP OF A BANKING UNIT

3. Requirement of licence to set up a Banking Unit

- (1) Indian Banks and Foreign Banks shall require licence from the Authority to set up a Banking Unit in an International Financial Services Centre.
- (2) An application shall be made by the Parent Bank in the form and manner as specified by the Authority.
- (3) The applicant shall satisfy the following requirements for grant of licence by the Authority:
 - (a) Parent Bank shall provide a minimum capital of USD 20 million or such other amount as may be specified by the Authority, or equivalent in any foreign currency to its Banking Unit, for the purposes of starting operations, that shall be maintained on unimpaired basis, at all times;
 - (b) Parent Bank shall obtain a No Objection Letter from its home regulator regarding setting up of the Banking Unit in the International Financial Services Centre;
 - (c) Parent Bank shall submit an undertaking that it shall provide liquidity to its BU whenever needed for the operations of the BU.
- (4) In case of applications from a Foreign Bank not having presence in India, the Authority shall specify a suitable mechanism, in addition to the conditions mentioned in sub regulations 3(b) and 3 (c).
- (5) After considering an application for setting up a Banking Unit, the Authority may grant licence to the applicant subject to such conditions as provided under these regulations or such other additional conditions as it may deem fit.

- (6) If the Authority is of the opinion that licence cannot be granted, it may give thirty days' time to the applicant, setting out the grounds based on which it cannot grant licence, to enable the applicant to make written submissions, if any.
- (7) After considering the submissions under sub-regulation (6) made by the applicant to the Authority, if the Authority is not satisfied, it may reject the application and shall communicate the same to the applicant in writing with reasons, not later than thirty days.
- (8) Every Parent Bank under sub-regulation (1) shall be permitted to establish only one Banking Unit in each International Financial Services Centre, as a branch.
- (9) Representative Offices shall be allowed to be set up in IFSC, under a suitable mechanism, subject to such conditions as may be specified by the Authority.

CHAPTER III

PRUDENTIAL REGULATORY REQUIREMENTS

4. General prudential requirements

- (1) Banking Units shall adhere to the norms and guidelines as may be prescribed by the Authority, from time to time.
- (2) Banking Units shall continue to comply with the directions and instructions issued by the Reserve Bank of India as applicable for IFSC Banking Units, unless otherwise specified by the Authority.

5. Liquidity ratios

- (1) A Banking Unit shall maintain the Liquidity Coverage Ratio;

Provided that with the Authority's permission, the Liquidity Coverage Ratio may be maintained by the Parent Bank.

- (2) Net Stable Funding Ratio shall be made applicable to a Banking Unit as and when determined by the Authority and shall be maintained by a Banking Unit;

Provided that with the Authority's permission, the Net Stable Funding Ratio may be maintained by the Parent Bank.

6. Maintenance of Leverage Ratio by Banking Units

Banking Unit shall adhere to the norms and guidelines relating to leverage ratio as may be specified by the Authority, from time to time.

7. Exposure ceiling

A Banking Unit shall be subject to an exposure ceiling of five percent of the Parent Bank's Tier 1 capital in case of a single borrower, and ten percent of Parent Bank's Tier 1 capital in the case of a borrower group.

8. Reserve requirements

The liabilities of a Banking Unit, other than the deposits raised from Qualified Individuals and Qualified Resident Individuals, shall be exempt from Cash Reserve Ratio or other such requirements. The deposits raised from Qualified Individuals and Qualified Resident Individuals shall be subject to such reserve ratios as may be specified by the Authority.

9. Lender of Last Resort

Lender of Last Resort support shall not be available to a Banking Unit.

CHAPTER IV

PERMISSIBLE ACTIVITIES

10. Currency for conducting business

A Banking Unit shall conduct such business in freely convertible foreign currencies and with such persons, whether resident or otherwise, as may be specified by the Authority.

Provided that a Banking Unit may be permitted to conduct such business in INR with such persons, whether resident or otherwise, as may be specified by the Authority, subject to settlement of the financial transaction in relation to such business in freely convertible foreign currency.

11. Foreign currency accounts

- (1) The following persons are permitted to open, hold and maintain foreign currency accounts with a Banking Unit:
- (a) Qualified Individuals;
 - (b) Persons resident outside India who are corporate or institutional entities, in the manner as may be specified by the Authority;
 - (c) Persons resident in India, who are corporate or institutional entities, subject to such requirements as may be specified by the Authority;
 - (d) Subject to sub-regulation (2), Qualified Resident Individuals
- (2) Qualified Resident Individuals are permitted to open, hold and maintain accounts in a freely convertible foreign currency, with a Banking Unit, for undertaking transactions connected with or arising from any permissible current or capital account transaction or a combination of both as specified in the Liberalised Remittance Scheme of the Reserve Bank of India.

12. Transactions through foreign currency accounts

- (1) Cash transactions in foreign currency accounts shall not be permitted.
- (2) An account in a freely convertible foreign currency may be opened, held and maintained with a Banking Unit in the form of current or savings or term deposit in cases where the account holder is an individual, and in the form of current or term deposit in all other cases, subject to such conditions as may be specified by the Authority.

13. Permitted activities

A Banking Unit may undertake the following activities, subject to compliance with such terms and conditions or guidelines as may be specified by the Authority, including matters relating to design, execution and risk management:

- (1) Lend in the form of loans, trade finances and acceptances, commitments and guarantees, carry out credit enhancement, credit insurance, and sale and purchase of portfolios;
- (2) Undertake inter-bank borrowings and lending;
- (3) Undertake investments, including subscribing, acquiring, holding, underwriting or transferring securities or such other instruments, as may be specified by the Authority, as principal or agent.
- (4) Extend Post-Shipment Export Credit in foreign currency, or engage in factoring and forfaiting of export receivables, subject to the guidelines specified by the Authority
- (5) Undertake equipment leasing, including aircraft leasing;
- (6) Participate in derivative transactions:
 - (a) enter into over the counter derivative contracts for its asset liability management requirements;
 - (b) undertake over the counter derivative contracts for its own account or for its corporate or Qualified Individual clients;
 - (c) transact in Interest Rate and Currency Derivatives in INR, with settlement in foreign currency, listed on a Stock Exchange;
 - (d) undertake derivative or forward contracts in gold for hedging its gold investments;
 - (e) offer non-deliverable currency contracts involving INR, or otherwise, to persons resident outside India and Banks in India having presence in the International Financial Services Centre.

Explanation: For the purpose of this clause, non-deliverable forward contract means a contract for the difference between an exchange rate agreed before and the actual spot rate at maturity, with the spot rate being taken as the domestic rate or a market determined rate and such contract being settled with a single payment in a foreign currency.

- (7) Operate as a Foreign Portfolio Investor:
- (a) If the Parent Bank of a Banking Unit is registered with Securities and Exchange Board as a Foreign Portfolio Investor, such Banking Unit may carry on activities as a Foreign Portfolio Investor in the IFSC without any separate registration requirement from the Authority but subject to filing an

intimation with the Authority in the form and manner as specified by the Authority;

- (b) If the Parent Bank of a Banking Unit is not registered with Securities and Exchange Board, such Banking Unit may carry on activities as a Foreign Portfolio Investor in IFSC after obtaining registration from the Authority in the form and manner as specified by the Authority;
- (c) Such Foreign Portfolio Investor may offer Segregated Nominee Account Structure for routing orders of foreign investors;
- (8) Function as a trading member for trading in interest rate or currency derivatives or as a professional clearing member for clearing and settlements in any derivative segment.

CHAPTER V

Know Your Customer and Anti-Money Laundering

14. Know Your Customer and Anti-Money Laundering measures applicable to a Banking unit

A Banking Unit shall follow Know Your Customer norms, combating of financing of terrorism and other anti-money laundering requirements, including reporting requirements issued by the Reserve Bank from time to time, unless otherwise specified by the Authority.

CHAPTER VI OPERATIONAL REQUIREMENTS

15. Reporting requirements

- (1) A Banking Unit shall be required to furnish information relating to their operations to the Authority, from time to time, and in such manner and form, as may be specified by the Authority.
- (2) A Banking Unit shall submit reports to the Authority in US Dollar, unless otherwise specified by the Authority.

16. Maintenance of books of accounts, records and documents

A Banking Unit shall maintain its books of accounts, records and documents in such freely convertible foreign currency, as may be declared at the time of making an application under Regulation 3.

17. Maintenance of accounts

- (1) A Banking Unit shall be permitted to have an INR account out of the freely convertible foreign currency to defray their administrative and statutory expenses, and for such other purposes as may be specified by the Authority.
- (2) A Banking Unit shall maintain separate nostro accounts with correspondent banks, distinct from nostro accounts maintained by other branches of the same Parent Bank in India.

CHAPTER VII MISCELLANEOUS

18. Deposit insurance

There shall be no centralised deposit insurance scheme for deposits of a Banking Unit.

19. Netting Arrangement

A Banking Unit may exchange margins in a freely convertible currency or permissible listed debt securities and sovereigns with a counter party Banking Unit or overseas regulated entity for non-centrally cleared over the counter currency, interest rate, credit and commodity derivative contracts to reflect mark to market exposure under a legally enforceable netting arrangement as may be specified by the Authority.

20. Power to specify procedures and issue clarifications

For the purposes of implementation of these regulations and matters incidental thereto, or in order to facilitate and regulate financial services relating to banking and investment activities in an International Financial Services Centre, the Authority may specify norms, procedures, processes, manners or provide relaxations, by way of guidelines or circulars.

21. Action in case of default

- (1) If the Parent Bank applicant or the Banking Unit fail to fulfil the conditions subject to which the licence under Regulation 3 has been granted, the Authority may withdraw the licence, after giving an opportunity of thirty days to the Banking Unit to make its submissions, if any.
- (2) Without prejudice to the above, the Authority may take any other action as it deems fit, under the Act.

22. Supersession and saving

- (1) On and from the commencement of these regulations, the provisions of the Reserve Bank Circular No. RBI/2014-2015/533 DOR.IBD.BC.14570/23.13.04/2014-15 dated 1 April 2015, shall no longer be applicable.
- (2) Notwithstanding the above, anything done or any action taken or purported to have been done or taken in respect of the circular mentioned in sub-regulation (1) shall be deemed to have been done or taken under the corresponding provisions of these regulations.
- (3) A Banking Unit operating in the International Financial Services Centre prior to the notification of these regulations, shall comply with additional requirements, if any, introduced by these regulations, within a period of three months from the date of notification of these regulations or within such extended time as may be specified by the Authority.

INJETI SRINIVAS, Chairperson

[ADVT. III/4/Exty./371/2020]